

August 21, 1978

Mr. Boyd Nance  
442 State Capitol Building  
Salt Lake City, Utah 84114

Re: Dry Creek Irrigation Co. v.  
U.S. Organic Ferto Corp.

Dear Mr. Nance:

This will acknowledge our telephone conversation of August 21, 1978, concerning your inspection of the Dry Creek stream drainage at Milburn, Utah.

My understanding of your comments to me with respect to that inspection was that the inspection was made with one Mr. Terrell of Ferto and that you had made one effort on the morning of the inspection to contact Leo Gillespie, at which time you were advised that he was not there at the ranch house. He was available and with any adequate pre-meeting notice would have been available to meet with you and Mr. Terrell at any time convenient for the two of you.

You advised that your inspection of the Dry Creek drainage consisted of:

A. A view of the stream bed from an area below the actual mine shaft and the open mining operation of Ferto.

B. That you did not make an on-the-ground inspection of the mining site itself.

C. That you did not inspect the mining shaft to determine whether or not the claim that the water drainage from that mine shaft had been blocked off and destroyed by Ferto was correct.

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D. You did not make an inspection of the stream bed at the mining location and were therefore unable to determine the nature and extent of the damage and alteration of the stream bed.

E. You did not make an inspection of the culverts and the road crossings to determine whether they had been altered or not.

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You advised that you had not prepared a written report but that you had made certain recommendations to your supervisor, Stan Adams, area engineer for the Sevier River drainage, but those recommendations were apparently not part of the public record unless you had reduced them to writing and you had chosen not to reduce the same to writing and therefore would not answer my questions with respect to those findings and recommendations.

You further advised that based upon your "inspection" that you had determined that there had been no violations of the law by the mining company.

It is inconceivable to me that an inspection can be made of a claim of alteration and damage to the drainage without a full and complete inspection by you of the actual mining site and the determination as to whether debris in fact had been deposited in the stream and the stream altered at the location of the mining site itself.

The recommendations, if any, which you made to Ferto were oral and not in writing and therefore not part of the public record.

Because of the significant long-continuing problem which has been overlooked or neglected by your department, I ask that you reduce your findings and recommendations and conclusions to writing and provide a copy of those to me. I have previously advised you that in the event you need a deposit for copying charges that I can send a law firm check, my check, or have a cashier's check delivered to you in Salt Lake City.

I ask that I be given notice of any and all meetings held between your department or the State of Idaho Water Resources Department and Ferto or the Dry Creek Irrigation

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Company concerning the stream and all water rights in the  
Dry Creek Canyon.

I strongly recommend that a new inspection be  
made and a complete report prepared.

As you are well aware, water in Sanpete County  
is at a premium and any obstruction creates a significant  
and substantial long-term problem.

May I hear from you at your earliest opportunity.

Very truly yours,

James R. Gillespie

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